

SIXTY-FIRST DAY.

Senate Chamber,
Austin, Texas,
April 17, 1931.

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Lieutenant Governor Edgar E. Witt.

The roll was called, a quorum being present, the following Senators answering to their names:

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Loy.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Neal.	Woodward.
Oneal.	

Prayer by the Chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Woodward.

Petitions and Memorials.

(See Appendix.)

Committee Reports.

(See Appendix.)

Bills and Resolutions.

By an affirmative vote of four-fifths of the membership of the Senate, the constitutional rule relating to the introduction of general bills during the last 90 days of the session was suspended and consent was granted to introduce the following bill:

By Senator Parr:

S. B. No. 600, A bill to be entitled "An Act creating a lien in favor of lessors of ranch and pasture lands upon the animals pasturing and grazing under lease for unpaid rentals; provision against removal of such animals from leased ranch or pasture until rentals on same are paid; provision for penalties if animals are re-

moved from leased premises before paying rentals due on same; provision for recording lease contract on ranch and pasture land, and declaring an emergency."

Read and referred to Committee on Stock and Stock Raising.

Message From the House.

Hall of the House of Representatives.

Austin, Texas, April 17, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

S. B. No. 17, A bill to be entitled "An Act making appropriations to pay the salaries of judges, and the support and maintenance of the Judicial Department of the State Government for the two-year period beginning September 1, 1931, and declaring an emergency."

(With amendment.)

S. B. No. 102, A bill to be entitled "An Act to prescribe regulations for the licensing of local recording agents and solicitors to represent insurance companies and insurance carriers in this State, excepting life insurance companies and carriers, providing for issuing of licenses and the conditions under which that may continue in effect; defining local recording agents and solicitors to be licensed; prohibiting the engaging in such insurance business without a license; prohibiting an agent knowingly from granting fire insurance in excess of the value of the subject matter; prohibiting rebating and discrimination; providing penalties for violation for the laws; giving to aggrieved parties resort to courts; providing that the law does not apply to certain representatives of admitted and licensed insurance carriers; repealing laws in conflict; and declaring an emergency."

S. B. No. 113, A bill to be entitled "An Act prohibiting the sale, offering for sale or having in possession for the purpose of sale any fish taken from the waters of the Sabine River, Attoyac River, Angelina River and the Neches River, and all tributaries thereof, and declaring an emergency."

(With amendments.)

S. B. No. 118, A bill to be entitled "An Act providing for the publishing

of biennial reports of state officers, boards and departments of this State; providing the manner thereof, and declaring an emergency."

(With amendments.)

S. B. No. 599, A bill to be entitled "An Act to amend Section 4, of Senate Bill No. 40, Acts of the Regular Session of the Forty-second Legislature and providing that Senate Bill No. 40 shall take effect from and after the passage of this Act; and declaring an emergency."

H. B. No. 260, A bill to be entitled "An Act amending Article 1672 of the Revised Criminal Statutes of 1925, by adding thereto a section authorizing the governing bodies of cities or towns of 5,000 inhabitants or more, according to the last Federal census, to regulate the ringing of bells and blowing of whistles within their corporate limits, and declaring an emergency."

H. B. No. 434, A bill to be entitled "An Act amending Chapter 92 of the Acts of the First Called Session of the Forty-first Legislature of the State of Texas, and declaring an emergency."

H. B. No. 844, A bill to be entitled "An Act to create a State commission for the Blind to prepare and maintain a register of those blind persons living in the State of Texas in which is shown their condition, cause of blindness, and capacity for education and industrial training; to set up a bureau of information and industrial aid for the blind, etc., and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,
Chief Clerk, House of Representatives.

House Bill No. 100.

The question recurred upon the pending amendment to H. B. No. 100.

The amendment was adopted by the following vote:

Yeas—14.

Greer.	Pollard.
Hardin.	Russek.
Holbrook.	Stevenson.
Loy.	Thomason.
Martin.	Woodruff.
Parr.	Woodul.
Patton.	Woodward.

Nays—7.

Berkeley.	Parrish.
DeBerry.	Poage.
Hornsby.	Small.
Oneal.	

Present—Not Voting.

Rawlings.	Williamson.
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Absent.

Beck.	Hopkins.
Cousins.	Moore.
Cunningham.	Neal.
Gainer.	Purl.

The bill was passed to third reading.

On motion of Senator Greer, the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 100 was put on its third reading and final passage by the following vote:

Yeas—24.

Berkeley.	Patton.
DeBerry.	Poage.
Gainer.	Pollard.
Greer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hornsby.	Stevenson.
Loy.	Thomason.
Martin.	Williamson.
Oneal.	Woodruff.
Parr.	Woodul.
Parrish.	Woodward.

Absent.

Beck.	Moore.
Cousins.	Neal.
Cunningham.	Purl.
Hopkins.	

Read third time and finally passed by the following vote:

Yeas—21.

Berkeley.	Parrish.
Cunningham.	Patton.
Greer.	Pollard.
Hardin.	Russek.
Holbrook.	Stevenson.
Hopkins.	Thomason.
Loy.	Williamson.
Martin.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.
Parr.	

Nays—5.

DeBerry. Purl.
Hornsby. Small.
Poage.

Present—Not Voting.

Rawlings.

Absent.

Beck. Gainer.
Cousins. Moore.

Reason for Vote.

On H. B. No. 100 I voted nay because the bill went back to 1921 which I consider entirely unreasonable. I further object on account of the present condition of the school funds of this State.

DeBERRY.

Bills Signed.

The Chair, Lieutenant Governor Edgar E. Witt, gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read, the following bills and resolutions:

H. B. No. 870.	H. B. No. 847.
H. B. No. 811.	H. B. No. 746.
H. B. No. 754.	S. B. No. 599.
H. B. No. 741.	S. B. No. 102.
H. B. No. 688.	S. B. No. 575.
H. J. R. No. 24.	S. B. No. 572.
H. C. R. No. 50.	S. B. No. 571.
H. C. R. No. 49.	S. B. No. 566.
H. C. R. No. 45.	S. B. No. 352.
H. C. R. No. 43.	S. B. No. 114.
S. B. No. 64.	S. B. No. 59.
S. B. No. 63.	S. B. No. 26.
S. B. No. 61.	S. B. No. 586.
S. B. No. 60.	S. B. No. 118.

Senate Bill No. 453.

The Chair laid before the Senate as special order the following bill:

By Senator Poage:

S. B. No. 453, A bill to be entitled "An Act repealing Article 194 of the Revised Civil Statutes of 1925, and providing that all election returns, in cases of election of State Senators, shall be made to the Secretary of State and the Secretary of State shall receive the returns and count the votes, and issue certificates of election to persons receiving the highest number of votes for Senator at any election in their respective districts."

Read second time.

Senator Poage sent up the following amendment:

Amend S. B. No. 453 by adding the emergency clause and amend the caption to conform.

POAGE.

Read and adopted.

Senator Neal asked unanimous consent to substitute S. B. No. 476 for S. B. No. 453. Objection was heard. The bill was passed to engrossment.

On motion of Senator Poage, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 453 was put on its third reading and final passage by the following vote:

Yeas—31.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Loy.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Neal.	Woodward.
Oneal.	

Read third time and finally passed.

Motion to Concur.

Senator Pollard moved to concur in the House amendment to S. B. No. 118. The motion prevailed.

Free Conference Requested.

On motion of Senator Beck, the Senate refused to concur in House amendments to S. B. No. 17 and asked for a Free Conference Committee.

Motion to Reconsider.

Senator Williamson spread on the Journal a motion to reconsider the vote by which H. B. No. 100 was finally passed.

Free Conference Requested.

On motion of Senator Oneal, the Senate refused to concur in House

amendments to S. B. No. 132 and requested a Free Conference Committee.

Conference Committee Appointed.

The Chair announced the appointment of the following conferees on S. B. No. 17:

Senators Beck, Hornsby, Purl, Small, and Holbrook.

Committee Appointed.

The Chair appointed Senator Cousins as provided for by H. C. R. No. 33.

Senate Bill No. 180.

The Chair laid before the Senate as special order the following bill:

By Senator Cousins:

S. B. No. 180, A bill to be entitled "An Act to amend Chapter 314, General Laws of the State of Texas, Forty-first Legislature, Regular Session, as amended at the Second Called Session thereof so as to further regulate motor carriers transporting property over the public highways."

Read second time.

Senator Woodul raised the point of order that under Senate Rule No. 23 H. B. No. 335 should be substituted for S. B. No. 180.

The Chair sustained the point of order and laid before the Senate the following bill:

H. B. No. 335, A bill to be entitled "An Act to amend Chapter 314, General Laws of the State of Texas, Forty-first Legislature, Regular Session, as amended at the Second Called Session thereof, so as to further regulate motor carriers transporting property over the public highways, etc., and declaring an emergency."

Read second time.

Senator Woodul sent up the following amendment:

Amend H. B. No. 335 by striking out of Section 6 (c) all after the word "territory," page 5, line 26, and inserting in lieu thereof the following: "provided however, that when it appears to the satisfaction of the Commission that any motor carrier making application for permit is, at the time of filing of the application, the owner and holder of a Class 'B' permit heretofore granted under the then existing provisions of

the Act and is and has been operating in good faith as a Class 'B' operator, said motor carrier shall, upon application, be granted a permit to operate just as such motor carrier shall have been operating and no more until August 31, 1931; provided, however, any person now lawfully operating as a Class 'B' operator in this State who may desire to continue in the business of a motor carrier shall file an application for a permit or certificate under the terms of this Act within thirty days after the effective date hereof and it shall be the duty of the Commission to determine such applications forthwith and such applicants may, subject to the provisions of this Act and to the orders, rules, rates and regulations of the Commission continue to operate as motor carriers pending the determination by the Commission of such applications."

WOODUL.

The amendment was read.

Senator Rawlings sent up the following amendment to the amendment:

Amend Woodul amendment to H. B. No. 335 by striking out all down to the semicolon after the figures 1931.

RAWLINGS.

Read and adopted by the following vote:

Yeas—12.

Cousins.	Poage.
Cunningham.	Purl.
DeBerry.	Rawlings.
Hornsby.	Williamson.
Loy.	Woodruff.
ONeal.	Woodward.

Nays—11.

Beck.	Martin.
Gainer.	Neal.
Greer.	Parr.
Hardin.	Stevenson.
Holbrook.	Woodul.
Hopkins.	

Absent.

Berkeley.	Pollard.
Moore.	Russek.
Parrish.	Small.
Patton.	Thomason.

The amendment as amended was adopted.

Senator Woodul sent up the following amendment:

Amend H. B. No. 335, Section 6, page 5, by striking out subsections (d) and (e) and inserting in lieu thereof the following:

"(d) No permit as herein provided for shall be required of any contract carrier operating solely in making the shortest practicable hauls of property by way of public highways as a part of the transportation of such property from the points of origin to the points of destination thereof, taking into consideration all intermediate transportation facilities other than by way of the public highways:"

The amendment was read.

Conference Committee Appointed.

The Chair announced the appointment of the following Senate conferees on S. B. No. 132:

Senators Oneal, Moore, Hardin, Rawlings, and Cunningham.

House Bills Referred.

H. B. No. 844 referred to Committee on State Affairs.

H. B. No. 434 referred to Committee on State Affairs.

H. B. No. 260 referred to Committee on State Highways and Motor Traffic.

Recess.

On motion of Senator Hornsby, the Senate, at 12:03 o'clock p. m., recessed until 2 o'clock p. m.

After Recess.

The Senate met at 2 o'clock p. m., pursuant to recess, and was called to order by Lieutenant Governor Edgar E. Witt.

House Bill No. 919.

The Chair laid before the Senate, by unanimous consent, the following bill:

H. B. No. 919, A bill to be entitled "An Act authorizing the county commissioners of certain described counties to receive out of the general fund of the county expenses for the operation and upkeep of automobiles not exceeding fifty dollars per month, and declaring an emergency."

The committee report was adopted.

The bill was read second time and passed to third reading.

On motion of Senator Oneal, the

constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 919 was put on its third reading and final passage by the following vote:

Yeas—31.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Loy.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Neal.	Woodward.
Oneal.	

Read third time and finally passed by the following vote:

Yeas—30.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
Gainer.	Pollard.
Greer.	Purl.
Hardin.	Rawlings.
Holbrook.	Russek.
Hopkins.	Small.
Hornsby.	Stevenson.
Loy.	Thomason.
Martin.	Williamson.
Moore.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.

Absent.

DeBerry.

Senate Bill No. 171.

The Chair laid before the Senate, by unanimous consent, the following bill:

By Senators Beck, Neal, Thomason and Moore:

S. B. No. 171, A bill to be entitled "An Act regulating the production, sale, dispensation and other traffic, in narcotic drugs as defined herein; making exceptions; providing for the identification of said drugs and the containers thereof and for the execution of prescriptions and orders therefor; providing for the con-

finement, treatment and parole of persons addicted to such drugs; etc., and declaring an emergency."

The committee report was adopted.

The bill was read second time and passed to engrossment.

On motion of Senator Beck, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 171 was put on its third reading and final passage by the following vote:

Yeas—31.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Loy.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Neal.	Woodward.
Oneal.	

Read third time and finally passed by the following vote:

Yeas—31.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings.
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Loy.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Neal.	Woodward.
Oneal.	

Senate Bill No. 379.

The Chair laid before the Senate, by unanimous consent, the following bill:

By Senator Cousins:

S. B. No. 379, A bill to be entitled "An Act creating the Texas State Nautical School, for the purpose of giving instruction in the practice of

navigation, seamanship, wireless telegraphy, steam and electrical engineering; creating a board of governors to manage said school, providing for the adoption of rules and regulations by said board; making an appropriation for the purpose of establishing and maintaining the same, and declaring an emergency."

Read second time.

Senator Poage sent up the following amendment:

Amend S. S. B. No. 379 by adding thereto a new section at the end of Section 4 to be known as Section 4a to read as follows:

"Sec. 4a. It is hereby declared to be the intention of the Legislative body to allow interested citizens to support such school and that it is understood that the State shall never be called upon to appropriate any money for the support of this school at this or any future time."

POAGE.

Read and adopted.

The committee substitute as amended was adopted.

The bill was read second time and passed to engrossment by the following vote:

Yeas—19.

Cousins.	Parr.
Gainer.	Parrish.
Hardin.	Patton.
Holbrook.	Russek.
Hopkins.	Small.
Hornsby.	Stevenson.
Loy.	Thomason.
Martin.	Williamson.
Moore.	Woodul.
Neal.	

Nays—6.

DeBerry.	Rawlings.
Poage.	Woodruff.
Purl.	Woodward.

Absent.

Beck.	Greer.
Berkeley.	Oneal.
Cunningham.	Pollard.

On motion of Senator Cousins, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 379 was put on its third reading and final passage by the following vote:

Yeas—31.

Beck.	Parr.
Berkeley.	Parrish.
Cousins.	Patton.
Cunningham.	Poage.
DeBerry.	Pollard.
Gainer.	Purl.
Greer.	Rawlings
Hardin.	Russek.
Holbrook.	Small.
Hopkins.	Stevenson.
Hornsby.	Thomason.
Loy.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Neal.	Woodward.
Oneal.	

Read third time and finally passed.

Senate Bill No. 589.

Senator Parr moved to take up S. B. No. 589. The motion prevailed by the following vote:

Yeas—16.

Berkeley.	Neal.
Cousins.	Oneal.
Gainer.	Parr.
Hardin.	Rawlings.
Holbrook.	Russek.
Hornsby.	Small.
Martin.	Stevenson.
Moore.	Woodul.

Nays—7.

Cunningham.	Purl.
DeBerry.	Thomason.
Loy.	Williamson.
Poage.	

Present—Not Voting.

Woodward.

Absent.

Beck.	Patton.
Greer.	Pollard.
Hopkins.	Woodruff.
Parrish.	

The Chair laid before the Senate on its second reading the following bill:

By Senator Parr:

S. B. No. 589, A bill to be entitled "An Act providing that the Legislature shall make appropriations for the compensation of the members of the Board of Water Engineers and fix such compensation, and repealing

Article 7482 of the Revised Civil Statutes, 1925; amending Article 7485 of the Revised Civil Statutes so as to provide for the fixing of the compensation of the secretary of said board; and declaring an emergency."

The committee report that the bill be not printed failed to be adopted by the following vote:

Yeas—15.

Beck.	Parrish.
Cousins.	Rawlings.
Gainer.	Russek.
Greer.	Stevenson.
Hardin.	Williamson.
Martin.	Woodruff.
Moore.	Woodul.
Parr.	

Nays—12.

Berkeley.	Oneal.
Cunningham.	Poage.
DeBerry.	Purl.
Holbrook.	Small.
Hornsby.	Thomason.
Loy.	Woodward.

Absent.

Hopkins.	Patton.
Neal.	Pollard.

(Two-thirds vote required.)

House Bill No. 335.

The question recurred upon the pending amendment to H. B. No. 335. The amendment was adopted.

Senator Woodul sent up the following amendments:

Amend H. B. No. 335 by adding after the word "operate," page 4, line 22, the following: "over the same routes that said common carrier shall have been operating and no more."

WOODUL.

Read and adopted.

Amend H. B. No. 335 by striking out of Section 4 (e) all after the word "public," page 3, line 56, to and including the word "law," page 3, line 58.

WOODUL.

Read and adopted.

Amend H. B. No. 335 by striking out of Section 6-a, page 6, lines 3 and 4, the following words: "maximum and."

WOODUL.

Read and adopted.

Senator Loy sent up the following amendment:

Amend H. B. No. 335 by adding a new section to read as follows:

It shall be unlawful hereafter for any railroad company or railroad companies or holding company or holding companies in this State to own, control or operate any motor truck carriers or motor bus carriers for the purpose of transporting any freight or passengers for compensation or hire as common carriers, except as herein provided, however, that railroads and motor carriers shall have the authority to deliver consignments from the termini points to the consignee and passengers to their homes, within a city or town or suburban territory, and they may also, with a permit from the Commission, for which no fee shall be paid, transport persons or property from one point on their route to a point on a route of another carrier, where no transfer charge is made except as a part of the passenger fare or freight charge, and it shall be unlawful for any such company or companies to own any stock or financial interest in any such company; provided, however, that any such railroad company or companies shall have two (2) years from the effective date herein within which to dispose of all trucks, buses, franchises, and all other equipment and all other property owned in connection therewith. Provided further, that at any time before the expiration thereof, if upon application and hearing it be made to appear to said Commission that said property can not be disposed of at its reasonable market value, then, and in that event, an extension may be granted by the Commission within which to sell the same, and provided further, that not more than two (2) extensions shall be granted to any one railroad company, which shall be for such time as said Commission may deem reasonable and proper.

LOY.

Read and lost by the following vote:

Yeas—12.

Cunningham.	Poage.
DeBerry.	Purl.
Hornsby.	Rawlings.
Loy.	Small.
Oneal.	Williamson.
Parrish.	Woodruff.

Nays—17.

Beck.	Moore.
Berkeley.	Neal.
Cousins.	Parr.
Gainer.	Patton.
Greer.	Stevenson.
Hardin.	Thomason.
Holbrook.	Woodul.
Hopkins.	Woodward.
Martin.	

Absent.

Pollard.

Russek.

Senator Rawlings sent up the following amendment:

Amend H. B. No. 335 as amended by striking out all below the enacting clause, and inserting in lieu thereof the following:

Section 1. Declaration of policy: The business of operating as a motor carrier of property for hire along the highways of this State is declared to be a business affected with the public interest. The rapid increase of motor carrier traffic, and the fact that under existing law many motor trucks are not effectively regulated, have increased the dangers and hazards on public highways and make it imperative that more stringent regulation should be employed, to the end that the highways may be rendered safer for the use of the general public; that the wear of such highways may be reduced; that discrimination in rates charged may be eliminated; that congestion of traffic on the highways may be minimized; that the use of the highways for the transportation of property for hire may be restricted to the extent required by the necessity of the general public, and that the various transportation agencies of the State may be adjusted and correlated so that public highways may serve the best interest of the general public.

Sec. 2. Definition of Terms:

(a) The term "Commission" when used in this Act, denotes the Railroad Commission of the State of Texas.

(b) The term "Highway Commission" when used in this Act, denotes the board of highway commissioners of the State of Texas.

(c) The term "person" when used in this act, denotes an individual, firm, company, co-partnership, corporation, association, joint stock association, or trustee or receiver appointed by any court whatsoever.

(d) The term "public highway"

when used in this Act, denotes every public road, highway, street, or thoroughfare of any kind in this State used by the public.

(e) The term "certificate" when used in this Act means a certificate of public convenience and public necessity issued under this Act.

(f) The term "motor carrier" when used in this Act, denotes every person, as heretofore defined, who owns, controls, manages, operates, or causes to be operated any motor propelled vehicle used in the business of transporting property for hire over any public highway in this State, where in the course of such transportation a highway is traversed between two or more incorporated towns and cities.

Provided, however, this Act shall not be construed as applying to motor vehicles used exclusively in transporting agricultural, horticultural, dairy, or other farm products from the point of production to market when such motor vehicle is owned or operated by the owner of such products, nor shall it apply in any case where the operator of such vehicle transports his or its own property; provided that such ownership shall be in good faith and not as a means of evading the terms of this Act, and it is hereby made the duty of the Commission to determine such question.

Sec. 3. The Commission is hereby vested with power and authority to regulate the operation and business of any person engaged in the business of a motor carrier, as that term has heretofore been defined, and to do any and all things, whether herein specifically mentioned or not, necessary to enforce the provisions of this act; to forbid and prevent operations and acts in violation of this law and the rules and regulations promulgated by the Commission under such law. Provided that nothing in this Act shall be construed as limiting or depriving cities and towns from exercising any of the powers granted them by Chapter 147, pages 307 to 318, inclusive, of the General Laws of the State of Texas, passed by the Thirty-third Legislature, or any amendments thereto.

Sec. 4. (a) No motor carrier shall hereafter operate for compensation or hire along the public highways of this State without first having ob-

tained from the Commission, under the provisions of this Act, a certificate declaring that the public convenience and necessity require such operation; provided, however, the Commission shall, without application or hearing, when this Act goes into effect, issue to all motor carriers then operating lawfully under permanent certificates of public convenience and necessity heretofore issued to them, certificates in lieu of the certificates issued under the terms of the former law, and provided that any person now lawfully operating as Class "B" motor carrier in this State who may desire to continue in the business of a motor carrier, shall file an application for a certificate under the terms of this Act within thirty days from the effective date hereof, and it shall be the duty of the Commission to hear and determine said applications forthwith; and such applicants may, subject to the provisions of this Act and to the orders, rules, rates, and regulations of the Commission, continue to operate as motor carriers pending the determination by the Commission of such applications.

(b) Provided further that the Commission shall, without application and hearing, when this Act goes into effect, issue to those persons then lawfully engaged in the business of transporting household goods, oil field equipment, or live stock under valid permits, special and limited certificates covering such operations.

(c) Provided, however, that those persons who receive such special certificates shall file with the Commission the rates charged and shall come under the same regulations as provided for the holders of certificates regularly issued under the terms of this Act.

(d) The Commission is hereby vested with power and authority and it is hereby made its duty to require that each driver of a motor propelled vehicle owned or operated by a motor carrier under the provisions of this Act shall have a driver's license, which license shall be issued by the Commission pursuant to an examination testing the ability and fitness of the applicant and under such rules and regulations as the Commission may prescribe; provided, that every driver aforesaid shall require a driver's license within thirty days

after this Act takes effect and shall annually thereafter on or before the anniversary of the date of the original license acquire a renewal thereof. Such license issued shall be for a term of one year. The Commission is empowered further to issue temporary licenses, in case of emergency, for such term as the Commission may deem expedient; provided such term shall not exceed ten days and there shall be no right or privilege or renewal thereof. The Commission is hereby authorized to collect a fee of One Dollar (\$1.00) for each annual license issued or renewed. The Commission may suspend or revoke any such license for cause after notice and public hearing. It shall be unlawful for any motor carrier to operate a motor propelled vehicle in this State unless such vehicle is operated by a driver holding an un-revoked and uncancelled license issued by the Commission.

Sec. 5. It is hereby declared that when existing motor carrier transportation facilities along any highway in this State do not provide service adequate for the public, then such inadequacy of service may be considered as creating a condition wherein the public convenience and necessity require the designation of and the provision for additional service on such highway, and it shall be the duty of the Commission, upon application, to issue certificate or certificates as herein provided, if the issuance of such certificates will promote the public welfare; provided, however, that in issuing such certificates, the Commission shall take into consideration the existing transportation facilities in the territory to be served by such applicant.

Sec. 6. (a) The Commission is hereby vested with power and authority and it is hereby made its duty to supervise and regulate the service rendered by motor carriers operating over the public highways of this State, to fix or approve the maximum or minimum, or maximum and minimum rates or charges of such motor carriers and to prescribe rules and regulations necessary for the regulation of such motor carriers; to prescribe, whenever necessary and practicable, the routes, schedules, service, territory to be served and safety of operations of each such motor

carrier; to require the filing of such reports and other data by such motor carrier as the Commission may deem necessary; to supervise and regulate such motor carriers in all other matters affecting the relationship between such motor carriers and the shipping public as may be necessary for carrying out the intent and purpose of this act, whether such regulations are specifically mentioned herein or not.

(c) The Commission is further authorized and empowered and it shall be its duty to supervise and regulate motor carriers in all matters whether specifically mentioned herein or not so as to carefully preserve, foster, and regulate transportation and to relieve the existing and all future undue burdens on the highways arising by reason of the use of the highways by motor carrier, adjusting and administering its regulations in the interests of the public.

(d) The Commission in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders shall invite the Highway Commission's opinion on the condition of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic and the Commission shall give due and proper consideration to the orders, regulations, ordinances, or recommendations of the Highway Commission of Texas; provided, however, nothing herein contained shall be deemed to restrict the powers of the Highway Commission under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipality through or between which motor carriers operate.

Sec. 7. (a) The Commission is vested with power and authority, and it is hereby made its duty, upon the filing of an application for a certificate, to ascertain and determine, under such rules and regulations as it may promulgate, after considering existing transportation facilities and the demand for or need of additional service, whether there exists a public necessity for such service and if the public convenience will be promoted by granting such application

and permitting the operation of the applying motor carrier on the highways or in the territory designated in such application. The Commission shall also ascertain and determine if the highways covered by application are of such type or construction or in such state of repair, as to permit the use sought by the applicant without unreasonable interference with the use of such highways by the general public; and, if the Commission shall determine after hearing that the service rendered by existing transportation facilities or agencies is reasonably adequate or that the public convenience will not be promoted by granting such application or that such highway or highways are not in such state of repair as to permit the use thereof sought by the applicant without unreasonable interference with the use of such highways by the general public, then in either of such events said application shall be denied and said certificates refused; otherwise, the application shall be granted and certificate issued upon such terms and conditions, restrictions and limitations as the Commission may impose. Where the operation is to be over a fixed route, the Commission shall, in said certificate, fix and define said route and designate the highways covered by such operation.

(b) In determining whether a certificate shall issue, the Commission shall give weight and regard to: (a) probable permanence and the quality of service offered by the applicant, (b) the financial ability and responsibility of the applicant and the responsibility and experience of its organization and personnel, (c) the character and condition of vehicles and the character and location of terminal facilities proposed to be used, where the use of such terminals is required, and (d) the experience of the applicant in the transportation of property and the character of the insurance proposed to be given to insure protection of the public.

(c) The Commission shall have the power and authority upon application notice and hearing to grant temporary certificates to meet emergencies and shall have the power to make special rules and regulations to meet special conditions in different localities, such temporary cer-

tificates to be granted for such time and upon such terms and conditions as may be necessary to meet the public emergency.

(d) Any certificates held, owned or obtained under the provisions of this act may be sold, assigned, leased, transferred or inherited; provided, however, that any proposed sale, assignment, lease or transfer shall be first presented in writing to the Commission for its approval or disapproval, and the Commission may disapprove such sale, assignment lease or transfer if it be determined by the Commission that such proposed sale, assignment, lease or transfer is not made in good faith, or that the proposed purchaser, assignee, lessee or transferee is not capable or financially able to continue the service exacted under the certificate proposed to be sold, in such manner as to render the service demanded by the public; the Commission in approving or disapproving any sale, assignment, lease or transfer may take into consideration all of the requirements and qualifications of a regular applicant mentioned in this section, and apply the same as necessary qualifications of any proposed purchaser, assignee, lessee or transferee. Provided that any certificate obtained by any motor carrier or by any assignee or transferee shall be taken and held subject to the right of the State at any time to limit, restrict or forbid the use of the public highways of this State to any owner or holder of such certificates.

Sec. 8. No applicant for a certificate shall be considered unless it be in writing and set forth substantially the following:

(a) It shall contain the name and names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(b) The complete route or routes or territory over which the applicant desires to operate, together with a description of each vehicle which the applicant intends to use.

(c) Where the applicant proposes to operate over a fixed route between fixed termini, the application shall show substantially the frequency of service to be inaugurated, and in those cases where the proposed operation will not be confined to desig-

nated highways, then the application shall set forth the extent of the territory to be served, and in all cases the application shall set forth, wherever practicable, the dates to be charged, said rates to be subject to the approval and control of the Commission.

(d) The application shall be accompanied by a plat or map showing the route or routes over which the applicant intends to operate, on which plat or map shall be delineated the line or lines of any existing motor carrier operating over the highways serving such territory, with the names and addresses of the owner or owners thereof; such application shall set forth in detail the inadequacy of existing transportation facilities, and shall specify wherein additional facilities are required, and the applicant is capable of furnishing such additional facilities and service, and the burden shall be upon the applicant to show wherein such needed additional facilities will be furnished by the granting of such application.

Sec. 9. Upon the filing of said application, the Commission shall fix a time and place of hearing, and the place of hearing shall be in the City of Austin, unless otherwise ordered by the Commission. Notice of the filing of said application and the time and place of hearing shall be given by mail not less than ten days, exclusive of the day of mailing, before such hearing, addressed to the owner or owners of existing transportation facilities serving such territory, as well as to the Highway Commission of the State of Texas, and where the application is confined to specific highways, to the County Judge of the county or counties and to the Mayor of each incorporated city or town through which such carrier seeks to operate.

Sec. 10. (a) The hearing on an application shall be conducted under such rules and regulations as the Commission may prescribe, and the parties interested, including the Highway Commission of this State, may appear either in person or by counsel and present such evidence and argument as they may desire and as the Commission may deem pertinent, in favor of or against the granting of such application. It shall be the duty of the Highway Commis-

sion, upon the request of the Commission, to furnish information relating to the highway or highways designated in such application, as well as such other information as the Commissioner may deem pertinent to the hearing. After hearing and such investigation as the Commission may make, it shall be the duty of the Commission to grant or refuse the application, and in any contested hearing, the Commission shall along with its order, file a concise written opinion setting forth the facts and grounds for its action, and such opinion shall be admissible as evidence on any appeal taken therefrom; upon the request of any party at interest in a contested hearing of any nature, the proceedings shall be taken down and reported by a reporter under the direction of the Commission.

(b) The Commission at any time after hearing had, upon notice to the holder of any certificate and after opportunity given such holder to be heard, may by its order, revoke, suspend or amend any certificate issued under the provisions of this act, where in such hearing the Commission shall find that such certificate holder has discontinued operation or has violated, refused or neglected to observe the Commission's lawful orders, rules, rates or regulations or has violated the terms of said certificate; provided that the holder of such certificate shall have the right of appeal as provided in this act.

Sec. 11. (a) Before any certificate may be issued to any motor carrier, and before any motor carrier may lawfully operate under such certificate, such motor carrier shall file with the Commission bonds and/or insurance policies issued by some solvent insurance company including mutuals and reciprocals or bonding company authorized by law to transact business in Texas, in an amount to be fixed by the Commission under such rules and regulations as they may prescribe, which bonds and/or insurance policies shall provide that the obligator therein will pay to the extent of the fact amount of such bonds and/or insurance policies, all judgments which may be recovered against the motor carrier so filing said insurance policies and/or bonds, based on claims for loss or damages from personal injury or loss of or injury to property occurring during the

term of the said bonds and/or policies and arising out of the actual operation of such motor carrier, and such bonds and/or policies shall also provide for successive recoveries to the complete exhaustion of the face amount thereof, and that such judgments will be paid by the obligator in said bonds and/or insurance policies, irrespective of the solvency of the motor carrier; provided, however such bonds and/or insurance policies shall not cover personal injuries sustained by the servants, agents or employees of such motor carrier. Each such motor carrier shall, on or before the date of the expiration of the term of any policy or bond so filed by him, file a renewal thereof, or new bonds or policies containing the same terms and obligations of the preceding bonds and/or policies and shall each year thereafter on or before the expiration date of the existing bonds and/or policies file such renewal and/or bonds so as to provide continuous and unbroken protection to the public having legal claims against such motor carrier, and in the event such renewal bonds and/or policies are not filed, the certificate of such motor carrier shall automatically expire and cease to exist.

(b) Each motor carrier shall also protect his employees by taking out workman's compensation insurance, either as provided by the Workman's Compensation Laws of the State of Texas, or in a reliable insurance company authorized to write workmen's compensation approved by the Commission.

Sec. 12. The Commission shall have the power and authority under this act to hear and determine all applications of motor carriers; to determine complaints presented to it by such carrier, by any public official or by any citizen having an interest in the subject matter pertaining to motor carriers upon its own motion. The Commission, or any member thereof, or authorized representative of the Commission, shall have power to compel the attendance of witnesses, swear witnesses, take their testimony under oath, make record thereof and if such record is made under the direction of a Commissioner, or authorized representative of the Commission, a majority of the Commission may, upon the record,

render judgment as if the case has been heard before a majority of the members of the Commission. The Commission shall have the power and authority under this act to do and perform all necessary things to carry out the purpose, intent and provisions of this act, whether herein specifically mentioned or not, and to that end may hold hearings at any place in Texas which it may designate.

Sec. 13. Every witness who shall be summoned to appear before the Commission, or a Commissioner or authorized representative, outside the county of his residence, shall receive for his attendance the same per diem and fees as now provided for witnesses in attendance in district courts of this state in criminal cases; such fees and mileage shall be ordered paid upon proper voucher, sworn to by such witness and approved by the Commission or the chairman thereof out of the moneys or funds arising under this act; provided that no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested in any motor carrier involved on concerning which the investigation or hearing an account of which he is called, shall relate, and no witnesses furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. All process issued by The Commission for summoning witnesses or other purposes shall be directed to the sheriff or any constable of any county in this State, and any sheriff or constable of any county of this State shall promptly execute any subpoenas or other documents directed to him by the Commission and shall receive such fees for this service as is now paid for like services in the district courts of this State, such payment to be made on accounts properly verified and approved by the Commission or the chairman thereof out of the fund provided in this act. Provided that any motor carrier at interest in any hearing may submit to the Commission the names and addresses of witnesses which he or it desires to use in such hearing, and it shall be the duty of the Commission to summon such witnesses.

Sec. 14. (a) Every officer, agent, servant, or employee of any corporation and every other person who

violates or fails to comply with or procures, aids, or abets in the violation of any provision of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed two hundred dollars, (\$200.00), and the violations occurring on each day shall each constitute a separate offense.

(b) Any officer, agent, servant, or employee of any motor carrier as hereinbefore defined, and any motor carrier as hereinbefore defined, who violates or fails to obey, observe or comply with any order, decision, rule, or regulation, direction, demand or requirement of the Commission, shall be subject to and shall pay a penalty not exceeding Five Hundred Dollars (\$500.00), for each and every day of such violation. Such penalty to be recovered in any court of competent jurisdiction in Travis County, Texas, or in the county in which the violation occurs. Suit for such penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or district attorney in the county in which the violation occurs, in the name of the State of Texas, and by direction of the Railroad Commission of Texas.

(c) Upon the violation of any provision of this Act, or upon the violation of any rule, regulation, order, rate, or decree of the Commission promulgated under the terms of this Act, any district court of Travis County, Texas, or any district court of any county where such violation occurs shall have the power to restrain and enjoin the person, firm, or corporation so offending, from further violating the provisions of this Act, and/or the rules, regulations, orders, rates, and decrees of the Commission. Such injunctive relief may be granted upon the application of the commission or upon the application of any person authorized by it to act. Such relief may be granted in suits for penalties as provided in subdivision (b) of this section, but a suit for penalty shall not be a condition precedent to the injunctive relief provided by this subdivision.

(d) It is hereby made a special duty of the Commission to rigidly enforce and cause to be enforced the provisions of this act and to prevent violation thereof. In order to accomplish such enforcement, the Commission shall immediately appoint

such inspectors as may be necessary to efficiently, promptly and effectively enforce the provisions of this Act, and it shall be the duty of such inspectors and they shall have the power and authority to make arrests for any violation of this Act and to file complaints thereon, but the authority of such inspectors to make arrests shall be confined solely to violations of this Act; and it shall be the duty of all judges, district and county attorneys and peace officers of the counties and municipalities of this State to assist and cooperate in the effective enforcement of this Act; provided that any member of the Commission or any agent, inspector, or employee thereof shall have the authority at any time to inspect the books, records, bills of lading or any other record of any motor carrier operating in this State.

(e) The Commission is hereby vested with power and authority and it is hereby made its duty to require all motor carriers to keep a set of accounts strictly in accordance with such classification of accounts and rules in respect thereto as may be established by the Commission and to file monthly reports and such other data as the Commission may deem necessary, which said accounts shall show, among other things, the amounts of money which the motor carrier becomes entitled to receive and does receive from transportation and other operations incident thereto and which shall also show the weight, rate, and freight of each shipment in detail, and the point at which each shipment was picked up and the destination where the shipment was delivered and which said accounts shall be open to the inspection of the Commission or its representatives at all times.

Sec. 15. (a) For the purpose of defraying the expense of administering this Act, every motor carrier now operating or which shall hereafter operate shall annually, between September first and September fifteenth of each calendar year, pay a special fee of Sixteen Dollars (\$16.00) for each motor propelled vehicle operated or to be operated by such motor carrier. If the certificate herein referred to is issued after the month of September of any year, the fees paid shall be prorated to the remaining portion of the year ending August thirty-first following, but in no case be less

than one-fourth the annual fee. In case of emergency or unusual temporary demands for transportation, the fee for additional motor propelled vehicles for less periods shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order. Every application for certificate shall be accompanied by a filing fee in the sum of Twenty Dollars (\$20.00), which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the certificate of convenience and necessity be granted or not.

(b) Every application filed with the Commission for an order approving the lease, sale, or transfer of any certificate shall be accompanied by a filing fee in the sum of Twenty Five Dollars (\$25.00), which fee shall be in addition to the other fees and taxes and shall be retained by the Commission whether or not the lease, sale, or transfer of the certificate is approved.

(c) All fees accruing under the terms of this Act and all fines and penalties collected under the provisions of this Act shall be payable to the State Treasurer at Austin, and shall be credited to a fund to be known and designated as the Motor Carrier Fund, which fund is hereby appropriated for the purpose of carrying out the terms of this Act, and out of which all warrants and expenditures necessary in administering and enforcing this Act shall be paid.

Sec. 16. It shall be unlawful for any motor carrier to operate any motor carrier vehicle or combination of vehicle within this State unless there shall be displayed upon the front and rear of such vehicle or combination of vehicles an identification plate to be furnished by the Commission, which plates shall be designed so as to identify the vehicles as being authorized to operate under the terms of this law. Such plates shall bear the number given the vehicle by the Commission, and such other marks of identification as may be necessary. These identification plates shall be in addition to the regular license plates required by law; these plates shall be displayed on each motor carrier vehicle operating in this State within sixty days after this Act takes effect, and such

plates shall be issued annually thereafter and attached to each motor carrier vehicle not later than September first of each year. The Commission shall be authorized to collect from the applicant a fee of One Dollar (\$1.00) for each plate issued, and such fees shall be deposited along with other fees in the State Treasury to the credit of the Motor Carrier Fund.

Sec. 17. (a) The Commission shall prescribe an identification card which must be displayed within the cab of each motor vehicle setting out the certificate number, and the route or territory over which the vehicle is authorized to operate, giving the name and address of the owner of said certificate. It shall be unlawful for the owner of said certificate, his agent, servant, or employee, or any other person to use or display said identification card after said certificate has been cancelled or disposed of. The identification card provided for herein may be in such form and contain such information as required by the Railroad Commission.

(b) It shall be unlawful for any owner of a certificate, his agent, servant, or employee to display upon any motor vehicle the certificate number or other insignia of authority from the Railroad Commission after said certificate has expired or has been cancelled.

(c) It shall be unlawful for any motor carrier, or the owner of a certificate, or his agents, servant, or employee, directly or indirectly, to offer, permit, or give to any person directly or indirectly, any commission or other consideration induce such person to deliver to such motor carrier or certificate owner property to be transported; and it likewise shall be unlawful for any shipper or consignee to receive from such motor carrier or certificate owner any such commission or consideration as an inducement to secure the transportation of any such property. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine not to exceed \$200.00, and each such transaction shall constitute a separate offense.

Sec. 18. Any motor carrier, his agent, servant, or employee who directly gives to any shipper any re-

bate, or any shipper, his agent, servant or employee who directly or indirectly receives any rebate, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed Two Hundred Dollars (\$200.00) for each offense, in any court of competent jurisdiction in this State. It being the intention of this Act that motor carrier shall in every instance collect and receive, and the shipper shall pay, only the rate or fee prescribed or approved by the Commission.

Sec. 19. Auto Pass Clause.

Sec. 20. It shall be unlawful hereafter for any railroad company, railroad transport company or railroad holding company operating in this state to own, control or operate any motor truck carrier or motor bus carriers for the purpose of transporting any freight or passengers for compensation or hire as common carriers, except as herein provided, and it shall be unlawful for any such company or companies to own any stock or financial interest in any such motor truck or motor bus carrier; provided, however, than any such railroad company or companies shall have two (2) years from the effective date herein within which to dispose of all trucks, busses, franchises, and all other equipment and all other property owned in connection therewith. Provided further, that at any time before the expiration thereof, if upon application and hearing it be made to appear to said Commission that said property can not be disposed of at its reasonable market value, then, and in that event, an extension may be granted by the Commission within which to sell the same; and provided further, that not more than two (2) extensions shall be granted to any one railroad company, which shall be for such time as said Commission may deem reasonable and proper, except as provided in Section 38.

Sec. 21. (a) The Commission shall have power to employ and appoint from time to time such experts, assistants, and other help, in addition to its present force, as may be deemed necessary to enable it at all times to properly administer and enforce this Act. Such persons and employees of the Commission shall be paid for the service rendered such sums as may be fixed and prescribed by the Commission in monthly install

ments, and such salaries, wages and all fees that may be paid to witnesses and officers shall be paid out of the Motor Carrier Fund by the State Treasurer on warrants of the Comptroller of Public Accounts on order or voucher approved by the Commission or the Chairman thereof. All actual and necessary traveling expenses of the members of the Commission and employees shall also be paid out of said fund in the same manner as salaries, wages, and fees, when such accounts shall have been itemized and sworn to by the Commissioner or employee incurring the expenses and approved by the Commission or the Chairman thereof.

(b) If the total amount of fees collected under the provisions of this Act shall not be sufficient during any annual period to pay such salaries, costs, charges, fees, and expenses, then the deficit shall be paid by the State Treasurer out of any fund not otherwise appropriated. Until sufficient funds have accrued to said Motor Carrier Fund for the payment of expenses, fees, etc., as provided herein, said expenses shall be paid by the State Treasurer out of any funds not otherwise appropriated, such sum to be paid out of the general revenue not to exceed the sum of Five Thousand Dollars (\$5,000.00). and said sum is hereby appropriated. Any surplus remaining in the Motor Carrier Fund at the end of any fiscal year, after paying all such salaries, accounts, fees, and charges, and after deducting such amounts as may be contracted to be paid and incurred and such sums as may be reasonably estimated by the Commission for its use pending further collection of fees, shall be paid over to the general revenue fund.

Sec. 22. If any motor carrier or order, act or regulation adopted by other party at interset be dissatisfied with any decision, rate, charge, rule, the Commission, such dissatisfied person, association, corporation, or party, after failing to get relief from the Commission, may file a petition setting forth the particular objection to such decision, rate, charge, rule order, act, or regulations or to either or all of them, in the district court in Travis County, Texas, against said Commission as defendant. Said action shall have precedence over all other causes on the docket of a dif-

ferent nature and shall be tried and determined as other civil causes in said court. Either party to said action may appeal to the appellate court having jurisdiction of said cause and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending; provided, that if the court be in session at the time such right of action accrues, the suit may be filed during such term and stand ready for trial after ten days' notice. In all trials under this section the burden of proof shall rest upon plaintiffs, who must show by the preponderance of evidence that the decisions, rates, regulations, rules, orders, classifications, acts, or charges complained of are unreasonable and unjust to it or them. The Commission shall not be required to give any appeal bond in any cause arising hereunder and no injunction shall be granted against any order of the Commission without hearing, unless it shall clearly appear that irreparable injury will be done the complaining party if the injunction is not granted.

Sec. 23. Whenever notice is required in this Act to be given, ten days exclusive of the day of service and return shall be considered as reasonable notice; provided, that in case of emergency the Commission may hear any cause of complaint on less than ten days' notice.

Sec. 24. The State Board of Control is hereby authorized and directed to set aside such additional office space in the Capitol at Austin as may be deemed necessary by the Commission for the proper performance of its added duties as herein defined.

Sec. 25. Any certificate of public convenience and necessity shall be cancelled by the Commission if the owner or owners thereof shall in any manner avoid, fail, or refuse to pay any gasoline or other tax imposed by law on such business.

Sec. 26. Chapter 314, Acts Regular Session of the Forty-first Legislature, 1929, and all subsequent amendments thereto are hereby repealed, as well as all laws and parts of laws in conflict herewith; provided, however, that nothing in this Act shall be considered as giving legislative sanction to any act that would violate the provisions of the Anti-trust Laws of Texas.

Sec. 27. If any section, subsection, sentence, clause, or phrase of this Act is held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act; and provided further that if this act or any part hereof is declared to be invalid as applied to any class of operators or any persons, such invalidity shall not affect the validity of this act or any part hereof as applied to other operators or persons.

Sec. 28. Emergency: The fact that at this time, under existing law, great numbers of motor carrier vehicles are inadequately regulated, and the fact that the safety of the traveling public is endangered by such inadequately regulated carriers, and the further fact that there is an urgent need for greater protection for the public highways of Texas, create an emergency and a public necessity requiring the suspension of the Constitutional Rule which requires all bills to be read in each House on three several days, and that such rule be and the same is hereby suspended and that this act shall take effect and be in force from and after its passage, and it is so enacted.

RAWLINGS.

The amendment was read.

The following amendments to the amendment were sent up for consideration without immediate action:

Amend the amendment to H. B. No. 335 by striking out from and including the word "a" in line 22, page 3, to the end of line 36.

WOODRUFF.

Amend the Substitute Amendment by striking out Sec. 20, page 10.

WOODWARD.

Amend Substitute to H. B. No. 335 by striking out all of Section 24.

WILLIAMSON.

Free Conference Report.

Senator Berkeley sent up the following Free Conference Committee report:

Austin, Texas, April 17, 1931.

Hon. Edgar E. Witt, President of the Senate.

Hon. Fred H. Minor, Speaker of the House of Representatives.

Gentlemen:

We, your Free Conference Committee, appointed to consider and adjust the differences between the Senate and House, House Bill No. 547, have met and carefully considered the bill with Senate Amendments and beg leave to report the following:

By Sanders

H. B. No. 547.

A BILL

To Be Entitled

An Act for the purpose of raising revenue by levying an occupation tax upon all producers engaged in the business of producing and selling natural gas in intrastate commerce within the State of Texas, and on dealers engaged in the business of selling cigarettes in intrastate business within the State of Texas, including all persons importing gas or cigarettes into the State and selling the same in intrastate commerce in this State, making certain exceptions, providing for the basis upon which said tax shall be computed, prescribing the manner, method and time of payment thereof and allowing certain deductions; requiring certain records can be inspected by certain State officers; defining certain terms used in said Act; prescribing certain duties for the State Treasurer, State Comptroller, and Railroad Commission with reference to the collection of said taxes, and giving them certain powers to prescribe certain rules and regulations for the enforcement thereof; prescribing certain offenses for the violation of said Act, and providing penalties, fines and punishment therefor; creating liens as to delinquency in the payment of said tax in certain instances; providing for the appropriation and use of the revenues collected hereunder, and providing appropriation to be used in carrying out the provisions of this Act by certain State officers; repealing certain portions of Article 6060 of the Revised Civil Statutes of 1925, and all of Section 39 of Article 7047 under Revised Civil Statutes of 1925, and declaring an emergency.

Be It Enacted by the Legislature of the State of Texas:

Section 1. (a) That from and after the date herein fixed, every person engaging or continuing with-

in this State, in the business of producing and saving in paying quantities, for sale or for profit, only natural gas, including casinghead gas, from the soil or waters of this State, and

(b) Every person who imports natural gas into this State and thereafter sells the same in intra-state commerce in this State, the tax to be imposed on the first sale; (provided, however, that if any gas is imported into this State from another state, in which latter state a severance occupation or excise tax is imposed, the person importing such gas shall not be required to pay another tax thereon under the provisions of this Act.),

(c) Are hereby declared to be "producers" and engaged in the business of producing natural gas within this State and shall make quarterly on the 25th day of January, April, July and October each year, a report to the Comptroller, under oath, of such person or his duly authorized agent or representative cognizant of the facts, showing the total amount of natural gas produced and saved by producer from each well, in this State or otherwise, and also all natural gas brought into this State through pipe lines and otherwise, and delivered to such producer, upon which gas this tax is computed during the quarter next preceding the first day of said months, and said producer shall accompany said report with a remittance, in the form required by law, in the amount of the tax due.

(d) The Comptroller shall prescribe the form of said report, which, among other things, shall show the total amount of natural gas produced and saved by said producer, and the total amount of gas which has been imported, the total amount of natural gas sold in intra-state commerce by such producer upon which the tax accrues, and said remittance shall be made on the gas produced, and a deduction of two (2%) per cent, for evaporation and loss, and to cover the expense of keeping records by such producer shall be deducted.

Sec. 2. The terms "producer," "produced," and "producing" as defined herein shall include every person producing natural gas, upon which a tax accrues hereunder, and the tax shall be paid on the first

sale of gas in intra-state commerce in this State where was imported. "Person" shall include every class of persons, including trustees, receivers, corporations, partnerships and associations of every kind. Quarters upon which said tax shall be computed shall be January, February and March, and the successive quarters of the year, and the tax shall be paid on the 25th day of the succeeding month after each quarter. It is intended to burden the industry with but a single tax, and no producer shall be required to pay a tax on any gas upon which a tax has previously been paid, or one against whom such a tax has theretofore accrued in Texas. Provided, that no producer shall be required to make a report on, or keep records of, or pay a tax on any natural gas, the requiring of which by the provisions of this Act would constitute a direct and unlawful burden on interstate commerce, or be obnoxious to the Constitution of the State or of the United States, and no tax shall be collected on sales made by producers directly to the Government of the United States or any branches, agencies, or instrumentalities thereof.

Sec. 3. A tax shall be paid quarterly by each such producer on the amount of gas produced and saved within this State, and on gas imported into the State, upon the first sale thereof in intra-state commerce upon the following basis: A tax equivalent to two per cent of the market value of the total amount of gas produced and saved within this State, or sold, if imported into this State, at the average market value thereof, and when produced.

Sec. 4. Every producer required to pay a tax under the provisions of this Act shall keep a complete record on such forms as shall be required by the Comptroller showing the amount of gas produced within this State and disclosing such other information as the Comptroller may require by appropriate rules and regulations, and the Comptroller may also adopt rules and regulations requiring such distributor to give meter readings not more than once each month.

Sec. 5. (a) Any producer failing to pay the tax on the date due shall forfeit as a penalty two (2%) per cent. of the amount of the tax due

and if not paid within thirty (30) days, shall forfeit an additional eight (8%) per cent.; which tax and penalties accruing hereunder shall bear interest at the rate of ten (10%) per cent. per annum from the date due.

(b) All taxes, penalties and interest due by any producer shall constitute a preferred lien on all of his wells, leases, and other property devoted to or used in his business as producer, not exempt under the Constitution, and if any producer shall fail to remit the proper taxes, penalties and interest due, or any of them, the Comptroller may employ auditors or other persons to ascertain the correct amount due, and the producer shall be liable, as an additional penalty, for the reasonable expenses or the reasonable value of such services of representatives of the Comptroller, incurred in such investigation and audit; provided, that all funds collected for audits and examinations shall be placed in a special fund in the Treasury and shall constitute a revolving fund which may be used from time to time by the Comptroller in making such audits in addition to the general appropriation made for such purpose, and all of said funds to be placed in said special fund are hereby appropriated for such purpose.

(c) The Attorney General shall enforce the provisions hereof and injunction proceeding may be brought to enjoin any producer from producing natural gas, who fails or refuses to pay taxes when due, or comply with the provisions hereof. The Railroad Commission shall also assist in the enforcement of the provisions hereof, and the Comptroller, shall allow the Railroad Commission to inspect the reports or may require every producer to make same in duplicate and the Comptroller shall send one copy of such reports to the Railroad Commission each month.

(c) Any suit to collect taxes or to enforce any of the provisions hereof may be brought in Travis County, Texas.

Sec. 6. Whoever shall, as a producer or as agent or representative of a producer, knowingly make any false entries or fail to make any proper entries in the books required by this Act with intent to defraud the State; or whoever as such, shall knowingly make a false or incom-

plete report as required by the provisions of this Act; or whoever as such shall knowingly fail or refuse to make the report required to be made; or whoever, as such shall destroy, mutilate or secrete any of the records required to be kept by the provisions of this Act; or whoever shall, as such, hide or accrete with intent to defraud, any if the property upon which a lien is created hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum of not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, or be confined in the County Jail not more than twelve months, or by both such fine and imprisonment; and, in addition thereto, shall forfeit to the State of Texas, for any said offense or the violation of any of the provisions hereof, or any rule or regulation, a penalty of One Thousand (\$1,000.00) Dollars for each such offense, to be recovered by the Attorney General.

Sec. 7. The Attorney General, Comptroller and Railroad Commission shall have the right to examine any of the books, records or properties of any producer, and of any other person in Texas buying gas from any such producer. Any person refusing such examination shall be liable for the punishment and penalties prescribed in the foregoing section.

Section 8. The Comptroller shall have the power to adopt any rules and regulations requiring the installation of meters of an approved design and the mode and manner of keeping and reading the same, and every producer is required, by the provisions of this Act, to install necessary meters.

Sec. 9. The first tax required to be paid hereunder shall be due October 25, 1931, computed and estimated on gas produced during the quarter next preceding, to-wit: July, August and September.

"Sec. 10. That Article 6060 of the Revised Civil Statutes of 1925, except in so far as it imposes a license fee or tax of one-fourth of one per cent against persons owning, operating, or managing pipe lines, as provided in Section 2 of Article 6060, is hereby repealed and said fund shall be used for enforcing the provisions of Articles 6050 to 6066, inclusive."

Sec. 11. In order to supplement the State's Available School Fund, and to reduce the burden of ad valorem taxation on the farms and homes and other property of the people, there is hereby levied a tax on all sales in intra-state commerce, in this State of cigarettes, made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand of \$1.50 per thousand, and on those weighing more than three pounds per thousand of \$3.60 per thousand. Such tax shall be paid only once, on account of any cigarettes so sold, by the persons, firm or corporation making the first sale thereof in intra-state commerce in this State, and payment shall be evidenced by stamps purchased from the State Treasurer and properly cancelled and securely affixed to the package or parcel containing the same, covering the amount of the tax thereon as levied by this Act, provided that such stamps may be purchased and cancelled and affixed to such package or parcel by a manufacturer or distributor outside this State, in which case no further payment of tax shall be required.

Sec. 11. It is the purpose and intent of this Act to relieve retail dealers in cigarettes in this State from all accountability by reason of sales thereof, except to make it unlawful to sell cigarettes on which the tax herein levied has not been paid, and for which are not contained in packages or parcels to which are securely affixed the stamps evidencing payment of tax as required by this Act; and Paragraph 39 of Article 7047 of the Revised Civil Statutes of 1925, requiring dealer in cigarettes to obtain and pay for an annual license authorizing such sale is hereby repealed.

Sec. 13. It shall be the duty of the State Treasurer to have engraved or printed the stamps of the proper denomination necessary to comply with this Act and to sell the same to all manufacturers or dealers upon demand and payment therefor, and one-half of the proceeds of such sale shall be placed to the credit of the State Available School Fund, and one half thereof to the General Fund, and the State Treasurer shall be responsible for the custody and sale of such stamps and for the proceeds of such sales under his official bond. Such stamps shall be of

such design as the State Treasurer shall from time to time prescribe, and shall state the amount of tax, the payment of which is evidenced thereby and shall contain the words: "Texas State Tax Paid."

Sec. 14. After this Act shall take effect any person who shall knowingly and willfully sell or offer for sale in this State, either as principal or as agent, any cigarettes except in packages or parcels bearing the stamps, properly cancelled, evidencing the payment of the tax thereon as levied by this Act, shall, for each such sale, upon conviction be fined not less than \$25.00 nor more than \$500.00, or be punished by imprisonment in the county jail for not less than ten days nor more than one year, or by both such fine and imprisonment; and any person, firm or corporation who shall sell or offer for sale, or aid or abet the sale of any cigarettes in packages or parcels not bearing the stamps, properly cancelled, evidencing the payment of the tax thereon levied by this Act, shall be liable to the State for a penalty of \$500.00 for each such unlawful sale, to be recovered at the suit of the State in any District Court of Travis County for the benefit of the State Available School Fund.

Sec. 15. Any person, other than the State Treasurer or his duly authorized agent, who shall print or engrave or directly aid in or cause the printing or engraving of any stamp or stamps evidencing or purporting to evidence the payment of any tax levied by this Act, or who shall use or consent to the use of any counterfeit or unauthorized stamps in connection with the sale or offering for sale of any cigarettes, or shall place or cause to be placed on any package or parcel containing or to contain such cigarettes, any such unauthorized or counterfeit stamps, shall upon conviction be punished by imprisonment in the penitentiary for not less than two nor more than twenty years.

Sec. 16. The provisions of this Act are severable, and, if any phrase, clause or other provision hereof shall be held void, the decision of the Court shall not affect or impair any of the remaining provisions, and should it be held that the tax herein imposed cannot be legally imposed upon any class or group of persons herein specified, than this Act shall

remain in force and effect regardless of the inability of the State to tax such persons.

Sec. 17. The fact that all of the natural gas resources of Texas are now being rapidly dissipated and depleted, and may soon be exhausted, that the State is in dire need of revenue, and the rapid approach of the end of this Session of the Legislature, creates an emergency and an imperative public necessity that the Constitutional rule requiring bills to be read on three several days in each House be suspended, and that same is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Respectfully submitted,

BERKELEY,
SMALL,
WOODWARD,
WOODUL,
MOORE,

On part of the Senate.

SANDERS,
McDOUGOLD,
HOLDER,
READER,

On part of the House.

The report was read.

Senator Purl moved not to adopt the report but to return it to the Committee for further consideration.

Senator Berkeley moved to table the motion. The motion to table prevailed.

The report was adopted.

Recess.

Senator Hornsby moved to adjourn until 9 o'clock tomorrow morning.

Senator Woodruff moved to recess until 9 o'clock tomorrow morning.

The motion to adjourn was lost.

The motion to recess prevailed and at 6:01 o'clock p. m., the Senate recessed.

APPENDIX.

Committee on Enrolled Bills.

Committee Room,

Austin, Texas, April 17, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 599

carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 17, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 102, carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 17, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 575, carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 16, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 572 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 16, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 571 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 16, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 566 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 16, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 352 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 16, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on En-

rolled Bills, have had S. B. No. 114 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 16, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 64 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 16, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 63 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 16, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 61 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 16, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills have had S. B. No. 60 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 16, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 59 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,

Austin, Texas, April 16, 1931.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 26 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee Room,
Austin, Texas, April 16, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Enrolled Bills, have had S. B. No. 118 carefully examined and compared and find same correctly enrolled.

GREER, Chairman.

Committee on Engrossed Bills.

Committee Room,
Austin, Texas, April 17, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 586 carefully examined and compared and find same correctly engrossed.

HARDIN, Chairman.

Committee Room,
Austin, Texas, April 16, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills, have had S. B. No. 297 carefully examined and compared and find same correctly engrossed.

HARDIN, Chairman.

Committee Reports.

Committee Room,
Austin, Texas, April 16, 1931.
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Stock and Stock Raising, to whom was referred

H. B. No. 1000, A bill to be entitled "An Act to amend Chapter 7, Title 121 of the Revised Civil Statutes of 1925, so that Presidio County shall not be exempted from the operation of Article 6972 to 7008 inclusive, relating to the inspection of hides and animals; providing for appointment of an Inspector of Hides and Animals for Presidio County, until the next General Election, by the Commissioners' Court of Presidio County; and further providing that should said Court fail to appoint such officer that the Sheriff of Presidio County shall perform the duties of said office; making provisions for the disposition of the fees collected by the Sheriff of Presidio County while performing the duties of Inspector of Hides and Animals; repealing all laws and parts of laws in conflict herewith."

Have had the same under consideration, and I am instructed to

report it back to the Senate with the recommendation that it do pass, and be not printed.

PARR, Chairman.

SIXTY-FIRST DAY.

(Continued.)

Senate Chamber,
Austin, Texas.
April 18, 1931.

The Senate met at 9 o'clock a. m., pursuant to recess, and was called to order by Lieutenant Governor Edgar E. Witt.

House Bill No. 335.

The question recurred upon the pending amendment to H. B. No. 335.

By unanimous consent, further consideration of this bill was postponed until Monday.

Bill Introduced.

By an affirmative vote of four-fifths of the membership of the Senate, the constitutional rule relating to the introduction of general bills during the last 90 days of the session was suspended and consent was granted to introduce the following bills:

By Senator DeBerry:

S. B. No. 601, A bill to be entitled "An Act to amend Article 546 of Chapter 1, Title 11, 1925 Penal Code of the State of Texas."

Read and referred to Committee on Criminal Jurisprudence.

By Senator Woodruff.

S. B. No. 602, A bill to be entitled "An Act to amend Article 609 of the Revised Civil Statutes of 1925, and declaring an emergency."

Read and referred to Committee on Civil Jurisprudence.

By Senator Hardin:

S. B. No. 603, A bill to be entitled "An Act to amend Chapter 78 of the Local and Special Laws enacted by the Thirty-sixth Legislature at its Regular Session in 1919, same being a Special Road Law for Erath county, by adding thereto section 2a, authorizing the Commissioners' Court of Erath county to make further provision for the maintenance of public roads and highways by the issuance